

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

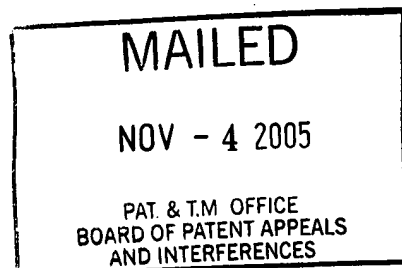
Ex parte ERIC ROMANSKI, CRAYTON G. TONEY,
JOSEPH G. O'CONNOR, and MAURICE R. PAQUIN

Application No. 09/923,936

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on September 15, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On April 11, 2003, appellants filed an Information Disclosure Statement (IDSs). It is not clear from the record whether the examiner considered the IDS or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.



In addition, a review of the application indicates that the Evidence appendix and Related proceedings appendix sections are missing from the Appeal Brief filed April 7, 2005. Therefore, the Appeal Brief does not comply with all the requirements of 37 CFR § 41.37(c).

37 CFR § 41.37(c) states:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(I) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(I) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(ix) *Evidence appendix.* An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) *Related proceedings appendix.* An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

A supplemental brief that is in compliance with 37 CFR § 41.37(c) is required.

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Accordingly, it is

ORDERED that this application be returned to the examiner to: 1) consider the Information Disclosure Statements filed April 11, 2003; 2) provide appropriate written notification by the examiner to appellants of such consideration; 3) hold the appeal brief of April 7, 2005 defective; 4) request appellants to file a supplemental appeal brief in compliance with 37 CFR § 41.37; 5) consider the supplemental appeal brief, and if necessary, vacate the examiner's answer mailed June 23, 2005, and issue a new examiner's answer; and 6) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____


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Application No. 09/923,936

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CRF/tdl